STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CM, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CARMEL MCGLINCHEY,

Respondent-Appellant.

UNPUBLISHED
February 2, 2001

No. 226896
Genesee Circuit Court
Family Division
LC No. 95-101290-NA

Before: Hoekstra, P.J., and Whitbeck, and Meter, JJ.

PER CURIAM.

Respondent appeals by right from an order terminating her parental rights to a minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g) and (j); MSA 27.3178(598.19b)(3)(c)(i), (c)(ii), (g) and (j). We affirm.

Respondent first argues that the family court lacked jurisdiction to terminate her parental rights because she was not properly served with notice of the termination proceedings. See MCL 712A.12; MSA 27.3178(598.12) (setting forth the notice requirement). This Court reviews jurisdictional questions de novo. *In re Terry*, 240 Mich App 14, 20; 610 NW2d 563 (2000). The failure to follow the court rules regarding notice requirements does not establish a jurisdictional defect. *In re Mayfield*, 198 Mich App 226, 230-231; 497 NW2d 578 (1993). Only the "failure to provide the applicable *statutory* notice" can cause such a defect and therefore warrant reversal. *Id*. at 231 (emphasis added).

The family court determined that because respondent's whereabouts were unknown at the time petitioner filed the termination petition, service by publication was appropriate in order to notify respondent of the initial hearing regarding the petition. See MCL 712A.13; MSA 27.3178(598.13) (allowing for notice by publication if personal service is impracticable). Respondent contends that the family court erred in concluding that petitioner made reasonable efforts to locate her before allowing service by publication. We disagree that the court erred in making this conclusion. Indeed, an affidavit filed by a foster care worker stated that the worker, in addition to consulting the telephone book, contacted a relative of respondent, the Probation

Department, the Department of Social Services, the Department of Corrections, the Friend of the Court, and known employers in an attempt to locate respondent. This affidavit sufficiently supported the family court's finding that petitioner made reasonable efforts to locate respondent. Accordingly, the service by publication, which stated that a petition had been filed and that a hearing was scheduled for May 19, 1999, was sufficient to confer jurisdiction on the court. *In re Mayfield*, 198 Mich App 226, 231-232; 497 NW2d 578 (1993).

Although the remainder of respondent's notice-related argument on appeal is somewhat difficult to understand, she apparently contends that when she did in fact show up for the May 19, 1999 hearing, petitioner or the court should have attempted to obtain an address from her in order to serve her personally. However, as stated above, the family court properly acquired jurisdiction over respondent by serving her notice by publication of the initial hearing on the termination petition. Respondent has cited no authority for the proposition that a family court *already having* proper jurisdiction over a respondent during child protective proceedings can be divested of that jurisdiction by a failure to serve notice personally when the respondent's whereabouts are later ascertained. We will not search for authority to sustain this proposition. See *Palo Group Foster Care, Inc v Dep't of Social Services*, 228 Mich App 140, 152; 577 NW2d 200 (1998).

Respondent also argues that petitioner failed to present clear and convincing evidence sufficient to allow termination in this case. This Court reviews for clear error a family court's finding that a statutory basis for termination has been met. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a statutory basis has been proven by clear and convincing evidence, the court must terminate parental rights unless the court finds that termination is clearly not in the best interests of the child. *Trejo, supra* at 344, 355.

The family court did not clearly err in finding that termination was warranted here. Indeed, various witnesses testified about respondent's mental health problems, her failure to complete counseling and parenting classes, her positive drug test, her transient lifestyle, and her failure to properly care for the child. The testimony clearly established at least one statutory basis for termination. See *Trejo, supra* at 360 (only one statutory basis is required in order to terminate parental rights). Moreover, the evidence did not establish that termination of respondent's parental rights was clearly not in the child's best interests.[1] See MCL 712A.19b(5); MSA 27.3178(598.19b)(5). Accordingly, the family court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Joel P. Hoekstra
/s/ William C. Whitbeck
/s/ Patrick M. Meter

[1] We note that respondent does not even challenge the best interests issue in her appellate brief but instead focuses solely on petitioner's alleged failure to establish a statutory basis for termination.